

### REMARKS

Claims 11-15, 20-26, and 35-41 are pending in the present application. Claims 11-15, 20-26, and 35-42 were examined. Claim 42 has been cancelled by amendment.

In the office action mailed September 23, 2005 (the "Office Action"), the Examiner objected to the specification as inappropriately incorporating subject matter into the application by reference and further objected to the title as not being descriptive. The Examiner further maintained the rejection of claims 11-15, 20-26, and 35-42 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,415,259 to Wolfinger *et al.* (the "Wolfinger patent").

An information disclosure statement was submitted on September 19, 2005 (the "IDS"). Applicants request the Examiner consider the references cited in the Form PTO-1449 of the IDS and provide the attorney of record with a signed and initialed copy of the Form PTO-1449.

With respect to the Examiner's objection to inappropriately incorporating subject matter into the application by reference, reference to *Enterprise Scheduling System (ESS) Function Specification*, Rev. 4.1 (June 30, 2000); and *Configurable WDS (CWDS)*, Rev. 2.1 (Aug. 1999). The Examiner's objection to the specification should now be withdrawn.

The title has been amended as suggested by the Examiner, and consequently, the objection to the title should be withdrawn.

As previously mentioned, claims 11-15, 20-26, and 35-42 have been rejected under 35 U.S.C. 102(e) as being anticipated by the Wolfinger patent. In arguing the rejection, the Examiner maintains the same arguments based on the Wolfinger patent as found in the previous office action mailed March 4, 2005. The Examiner further argues the rejection of the claims at pages 2-4 of the Office Action under "Response to Arguments." Since the Examiner's arguments at pages 7-16 are not substantively different than those set forth in the previous office action, the remarks in the present response are directed to the Examiner's arguments set forth under the "Response to Arguments." The present remarks supplement the remarks of the previously filed response, which are maintained by Applicants.

The Examiner rejects the claims based on the characterization that the Wolfinger patent teaches a configurable work order scheduling system having workflow, workforce management and scheduling subsystems where the scheduling system utilizes a rules/inference engine to solve and optimize the assignment of workers and orders. See the Office Action at

page 3. However, even if it is assumed that the Examiner's characterization of the scheduling system described in the Wolfinger patent is accurate, it still fails to disclose the combination of limitations recited by the claims.

For example, the Wolfinger fails to disclose altering the execution of a scheduling process according to a set of fixed rules by a set of configurable rules and programmable constants. The Examiner argues that the Wolfinger patent teaches that "the configurable scheduling system and method utilizes a plurality of constraints which *alter the assignment of workers and orders* and that the constraints are programmed by the user of the system." See page 3 of the Office Action (emphasis added). The Examiner further argues that the Wolfinger patent teaches that the configurable scheduling system and method utilizes a plurality of rules and templates, which are programmed by the user, to control/determine *the assignment of workers and orders*. See the Office Action at page 4. These arguments, however, fail to recognize that the claims recite limitations that are directed to *altering the execution* of the scheduling process and not altering the assignment of workers and orders.

As described in the present application, the execution of the scheduling process can be altered from executing in accordance with the fixed rules to executing in accordance with the fixed rules *as modified* by the configurable rules. Altering or modifying the scheduling process is not analogous to merely altering the assignment of workers and orders. In the latter case, changes to the scheduling and assignment of orders and workers in response to scheduling constraints, such as utilization percentage, time slot duration, customer value, does not suggest that the scheduling process is performed any differently than with a different set of scheduling constraints. A scheduling process is supposed to schedule workers and orders consistent with specific scheduling parameters and make changes to the schedule when orders or workers are added, substituted, or cancelled. The scheduling process, however, is executed in the same manner each time there is a schedule change.

As for altering the execution of the scheduling process, as described in the present application, user programmable configurable rules and constants can be used to tailor the scheduling process. As further described in the present application, although the underlying scheduling algorithm is fixed and generally inaccessible to the user, the user is provided a mechanism through the configurable rules and constants to customize or configure operation of the scheduling algorithm to the particular needs of the user. Many examples of configurable

rules are provided in the present application. Some of the example rules employ logic operators that control the flow of the program based on the result of the operator. For example, at paragraph 44 (with reference to U.S. Patent Application Publication No. 22020016645) the rule “R:011 {[order.state] eq :pending;}” is explained as returning a true value for all the orders that are currently pending. The rule “R:xyz all-of {R:01; R:02; R03}” returns a true or false value based on whether all of the rules are true. The configurable rules are programmable by the user so that execution of the scheduling algorithm according to just the fixed business rules can be altered as provided by the user configurable rules and constants. Unlike the constraints, rules, and templates described in the Wolfinger patent, the user programmable configurable rules and constants serve a purpose other than merely altering the assignment of workers and orders (i.e., schedule or reschedule workers and orders).

As previously mentioned, the Examiner references the use of rules/inference engines, namely ILOG Rules, ILOG Solver and ILOG Scheduler as supporting the rejection of the claims. The use of the rules engines, however, does not equate to providing user programmable rules that can be used to alter the execution and operation of the scheduling program. The Wolfinger patent does not disclose or contemplate rules that are programmable by the user. The discussion of the rules engines is centered around their use for carrying out the scheduling process. The rules are used to govern task and information routing during the scheduling process. However, the discussion is missing any disclosure or suggestion of providing a user with the ability to tailor the scheduling process through user programmable rules. It appears that the rules which govern operation of the rules engines are already programmed, and are not accessible to the user.

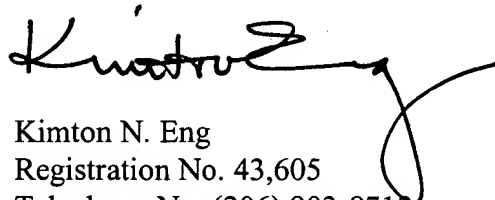
Claims 11, 20, 26, and 35 include limitations directed to having or using programmable rules to alter execution of the scheduling process according to fixed rules to execution of the scheduling process according to the fixed rules as altered by the programmable rules. For example, claim 11 recites programming a programmed constraint set to supplement or change a fixed constraint set of a scheduling process that performs a process of scheduling orders to a worker where the fixed constraint set including fixed rules and the programmed constraint set including user configurable rules and a set of programmable constants controlling the flow of execution of the rules. The scheduling process is executed in accordance with the fixed constraint set and execution is altered in accordance with the configurable rules and

programmable constants. Claim 20 recites a scheduling system that includes a processor coupled to a memory for executing a scheduling process that performs a schedule process of scheduling orders and workers in accordance with the set of fixed business rules and altering execution of the scheduling process according to the set of fixed business rules as altered by the set of configurable rules. Claims 26 and 35 recite similar limitations.

As previously discussed, the Wolfinger patent fails to disclose a scheduling system and method including at least this limitation, and consequently, claims 11, 20, 26, and 35 are patentably distinct from the Wolfinger patent. Claims 12-15, which depend from claim 11, claims 21-25, which depend from claim 20, and claims 36-41, which depend from claim 35, are similarly patentably distinct from the Wolfinger patent. Therefore, the rejection of claims 11-15, 20-26, and 35-41 under 35 U.S.C. 102(e) should be withdrawn.

All of the claims pending in the present application are in condition for allowance. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,  
DORSEY & WHITNEY LLP



Kimton N. Eng  
Registration No. 43,605  
Telephone No. (206) 903-8718

KNE:ajs

Enclosures:

Postcard  
Check  
Fee Transmittal Sheet (+ copy)

DORSEY & WHITNEY LLP  
1420 Fifth Avenue, Suite 3400  
Seattle, Washington 98101-4010  
(206) 903-8800 (telephone)  
(206) 903-8820 (fax)

h:\ip\clients\mdsi\500741.01\500741.01 amend after final reject 1.116.doc